

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Interconnection and Resale Obligations )  
Pertaining to )  
Commercial Mobile Radio Services )

CC Docket No. 94-54


To: The Commission

**COMMENTS OF THE AMERICAN MOBILE  
TELECOMMUNICATIONS ASSOCIATION, INC.**

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

By:



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January 5, 1998

No. of Copies rec'd 0211  
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The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association") respectfully submits its comments on the Federal Communications Commission ("FCC" or "Commission") request for additional comments on automatic roaming proposals for cellular, broadband PCS, and covered SMR networks.<sup>1</sup> As described below, AMTA has identified no developments within the technical or competitive environments in which its members operate that would support adoption of an automatic roaming requirement for the industries it represents.

## **I. INTRODUCTION**

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. These members provide commercial wireless services throughout the country. Many are classified as Commercial Mobile Radio Service ("CMRS") operators: some also would be considered "covered SMRs" under the definition currently applicable for purposes of the roaming obligations under consideration in this proceeding. Thus, AMTA and its members have a significant interest in the outcome of this proceeding.

## **II. BACKGROUND**

2. The instant Notice seeks additional comment on the outstanding issue regarding the adoption of a rule requiring cellular, broadband PCS and covered SMR providers to enter into automatic roaming agreements on a nondiscriminatory basis. As described in the Notice, automatic roaming occurs when the roaming subscriber is able to originate or terminate a call

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<sup>1</sup> Public Notice, Commission Seeks Additional Comment on Automatic Roaming Proposals for Cellular, Broadband PCS, and Covered SMR Networks, DA 97-2558 (rel. Dec. 5, 1997) ("Notice").

without taking any action other than turning on his or her telephone, and requires a contract between the subscriber's home system and the roamed-on host carrier.

3. The Commission previously had adopted rules imposing on these same licensee categories an obligation to provide manual roaming, in which the customer establishes a relationship with the roamed-on network, to any subscriber on any of these services who is using a handset that is technically capable of accessing the licensee's system, but had specified that licensees were not obligated to modify their systems to provide manual roaming capability to any end user.<sup>2</sup> Comments on automatic roaming had been submitted during that same stage of this proceeding, but the FCC determined that there was not sufficient evidence to support adoption of such a requirement based on the record at that time.

4. The Commission cited a number of bases for its unwillingness to mandate automatic roaming in the 2nd R&O. There was not, at that point, record evidence indicating that the competitive marketplace was inadequate to ensure that roaming would be available under terms and conditions satisfactory to the public. The FCC also stated, however, that a principal reason for its hesitancy to impose such a requirement was its concern that "technical factors might render compliance with rules unduly costly for providers, or that our rules might inadvertently impede technological progress."<sup>3</sup> It further noted that:

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<sup>2</sup> Second Report and Order and Third Notice of Proposed Rulemaking, CC Docket No. 94-54, 11 FCC Rcd 9462 (1996) ("2nd R&O"). AMTA has filed a Petition for Reconsideration of that Order urging the FCC to revisit its definition of "covered SMR" which was over-inclusive and inconsistent with the Order's explanation of those SMRs intended to be covered by the regulation. See, AMTA Petition for Reconsideration filed September 26, 1996. That Petition remains pending.

<sup>3</sup> 2nd R&O at ¶ 25.

...the imposition of an automatic roaming requirement could be costly and burdensome. There are currently approximately 1,400 cellular systems; we anticipate that broadband PCS and covered SMR providers, once licensed, will expand that number appreciably. What network and administrative costs are associated with entering into and maintaining roaming agreements among all such carriers?<sup>4</sup>

5. Although the FCC emphasized that it was not considering roaming requirements that would require carriers to upgrade their networks or implement new technologies solely to accommodate roaming subscribers, it nonetheless held that the record was insufficient to establish an automatic roaming obligations. However, it did indicate that it intended periodically to update its record on this issue, as it is doing in the instant Notice. The Notice specifically queries whether there have been recent developments in the voluntary initiation of automatic roaming agreements, the technical feasibility or cost of automatic roaming proposals, and the compatibility of such a requirement with the Commission's already-adopted CMRS number portability rules, including the provision for offering service provider portability through their networks, that will become effective by mid-1999.

### III. DISCUSSION

#### A. THERE HAVE BEEN NO CHANGES IN THE SMR MARKETPLACE THAT WOULD SUPPORT ADOPTION OF AN AUTOMATIC ROAMING OBLIGATION.

6. In its earlier-filed comments in this proceeding, AMTA explained that the FCC should not, and did not need to, impose an automatic roaming obligation on SMR operators to serve the public interest. The Association distinguished the heavily dispatch, largely localized, business-focused marketplace served by its members from the consumer-oriented mobile

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<sup>4</sup> 2nd R&O at ¶ 29.

telephone business engaged in by cellular and, presumably, PCS licensees. It suggested that the technical complexities associated with a mature service like SMR, particularly one in which there is no interoperability among subscriber units from one technology format to the next, dictated against adoption of a federally mandated automatic roaming obligation. AMTA concluded that the wiser course would be to allow the marketplace to determine whether and where automatic roaming should be made available on SMR systems.

7. There have been no changes in the SMR marketplace at 800 MHz, 900 MHz, 220 MHz or 450-512 MHz since the Association's submission of those comments that would dictate a different conclusion at this date. Even manual roaming continues to be the exception rather than the rule within the SMR industry. This result is a product of the type of customers that tend to gravitate toward the dispatch-oriented, typically localized, specialized business, service offered on traditional SMR facilities, plus the traditional use of high-power and high-elevation sites that provide broader coverage from a single facility system. Some operators, typically in rural, less densely populated markets, have elected to enter into such agreements, but there has been relatively little need for them within the SMR community. Moreover, AMTA is unaware of any request from a cellular or PCS operator for manual or automatic roaming onto an SMR system. Adoption of such a requirement in the absence of any evidence of a marketplace demand for that capability would be inconsistent with the Commission's broader deregulatory initiative.

B. IF THE FCC ADOPTS AN AUTOMATIC ROAMING REQUIREMENT, IT MUST ALSO AMEND ITS DEFINITION OF COVERED SMR.

8. AMTA has already petitioned the FCC to modify the definition of covered SMR used in this, as well as in several other, contemporaneously adopted proceedings.<sup>5</sup> The Association also filed a Request for Declaratory Ruling on this same issue.<sup>6</sup> AMTA requests that those pleadings be incorporated herein by reference.

9. Both requests highlighted the inconsistency between the text of the FCC's Orders and the definitions adopted in respect to the universe of SMR licensees intended to be included as covered SMR providers. For example, in the instant proceeding, in explaining the scope of its manual roaming provision, the Commission concluded:

...because they do not compete substantially with cellular and broadband PCS providers, local SMR licensees offering mainly dispatch services to specialized customers in a non-cellular system configuration...are not covered by the roaming rule we are adopting today.<sup>7</sup>

Nevertheless, as detailed in AMTA's earlier-filed Petition for Reconsideration and as iterated in its Request for Declaratory Ruling, the covered SMR definition encompasses a substantial percentage of those localized, non-cellular-like SMR operators.

Should the FCC now impose an even more burdensome and costly automatic roaming

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<sup>5</sup> AMTA Petitions for Reconsideration filed in response to First Report and Order, CC Docket No. 94-54, 11 FCC Rcd \_\_ (rel. July 12, 1996) ("Resale Order"); Report and Order, CC Docket No. 94-102, 11 FCC Rcd \_\_ (rel. July 26, 1996) ("E911 Order"); First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, 11 FCC Rcd \_\_ (rel. July 2, 1996) ("Number Portability Order"); Report and Order, ET Docket No. 93-62, 11 FCC Rcd \_\_ (rel. Aug. 1, 1996) ("RF Order").

<sup>6</sup> AMTA Request for Declaratory Ruling filed Dec. 16, 1996.

<sup>7</sup> 2nd R&O at ¶ 14.

requirement on some segment of the SMR industry, the Association urges the Commission to revise its covered SMR definition simultaneously.

10. In this regard, the FCC can be guided by the modified covered SMR definition utilized in the recently-adopted Memorandum Opinion and Order relating to E-911 obligations.<sup>8</sup> Responding to opposition to the definition originally used, the Commission agreed that the language was overinclusive and replaced it with a definition recommended by the Association. Specifically, the agency stated:

For the foregoing reasons, we conclude that the "covered SMR" definition should be narrowed to include only those systems that will directly compete with cellular and PCS in providing comparable public mobile interconnected service. We agree, as several petitioners suggest, that the best indicator of an SMR provider's ability to compete with cellular and broadband PCS providers in this respect is whether the provider's system has "in-network" switching capability. This switching capability allows an SMR provider to hand off calls seamlessly without manual subscriber intervention. In-network switching facilities also accommodate the reuse of frequencies in different portions of the same service area. Frequency reuse enables the SMR provider to offer interconnected service to a larger group of customers, which enables the provider to compete directly with cellular and PCS. We therefore adopt these criteria as the basis for our definition of "covered" service.<sup>9</sup>

11. The same reasoning is applicable in the instant proceeding. The FCC has already determined that only SMR networks capable of competing with cellular and PCS should be subject even to a manual roaming requirement. The same refined definition of such entities included in the recent E-911 decision should be adopted for purposes of establishing roaming obligations as well. Moreover, in the event the FCC adopts AMTA's pending recommendation

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<sup>8</sup> Memorandum Opinion and Order, CC Docket No. 94-102, 12 FCC Rcd \_\_ (rel. Dec. 23, 1997).

<sup>9</sup> Id. at ¶ 78.

to adopt this same covered SMR definition for purposes of number portability applicability,<sup>10</sup> there will be full consistency between SMR roaming and number portability obligations.

#### **IV. CONCLUSION**

12. To the best of AMTA's knowledge, there have been no developments in the CMRS generally or the SMR industry specifically that warrant reconsideration of the FCC's decision not to impose an automatic roaming obligation on any SMR licensees. However, if the FCC determines that such a requirement is appropriate for SMR networks that compete directly with cellular and broadband PCS, then it must also amend the covered SMR definition adopted earlier in this proceeding.

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<sup>10</sup> AMTA Petition for Reconsideration, CC Docket No. 95-116 (filed Aug. 26, 1996).



## CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 5th day of January, 1998, caused to be hand delivered a copy of the foregoing Comments to the following:

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